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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,696	01/19/2001	Daniel S. Sem	P-TB 4567	6467

23601 7590 01/21/2004
CAMPBELL & FLORES LLP
4370 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO, CA 92122

EXAMINER

PONNALURI, PADMASHRI

ART UNIT PAPER NUMBER

1639

DATE MAILED: 01/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/765,696

Applicant(s)

SEM, DANIEL S.

Examiner

Padmashri Ponnaluri

Art Unit

1639

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☒ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see the attached.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see the attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

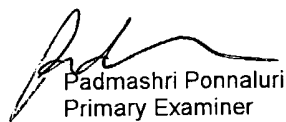
Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 44-56.

Claim(s) withdrawn from consideration: none.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Padmashri Ponnaluri
Primary Examiner
Art Unit: 1639

ADVISORY ACTION continued:

The proposed after final amendment filed on 12/1/03 has been considered.

The proposed amendment has not been entered for the following reasons:

- a) the amendment proposes to add new claims, which may raise new matter, require new search; e.g., the proposed claim 57 recites the 'common ligand is the cofactor nicotinamide adenine dinucleotide or nicotinamide adenine di-nucleotide phosphate or mimic of said cofactor...' Applicants argue that the new claims have support from the original claims 9, 11-12. However, the original claims do not recite cofactor is "mimic of nicotinamide adenine dinucleotide or mimic of nicotinamide adenine di-nucleotide phosphate. Applicants have not pointed out any other support in the specification.
- b) Applicants proposed amendment adds new claims without cancelling claims.
- c) the proposed amendment and response would not overcome the rejections of record under 35 USC. 112, first paragraph or the art rejections of record, for the reasons set forth in the previous office action.